

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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BETZALEL SCHWARTZMAN,

Petitioner,

-against-

YAAKOV HARLAP, also known as Jacob
Charlap,

Respondent.
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ORDER

08 Civ. 4990 (BMC)

Respondent Harlap appealed the April 13, 2009 judgment of this Court granting petitioner Schwartzman's request to confirm an arbitration award under the Convention on the Recognition and Enforcement of Foreign Arbitral Awards. On May 18, 2010, the Second Circuit affirmed this Court's confirmation of the award, but remanded the case "for further proceedings to consider whether such direct payment [to Schwartzman] is appropriate in light of the arbitration award's direction that payment be made 'only into the hands of the court secretary.'" On appeal, Harlap had argued for the first time that Schwartzman mistranslated the arbitration award and that it should be paid directly to the arbitration court to pay Schwartzman's judgment creditors, not directly to Schwartzman.

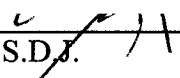
Upon issuance of the Mandate, this Court issued an Order on June 23, 2010, directing the parties to "set forth their position on how the Court should proceed in light the Second Circuit's Mandate." Schwartzman has not submitted any response. Harlap simply urges that the entire award should be vacated.

In compliance with the Mandate, and in the absence of assistance from the parties, the Court has reviewed the record before it on the motion to confirm the arbitration award. There does not appear to be any issue of mistranslation. The translation of the arbitration award that Schwartzman annexed to his petition to confirm provides that “[t]he entire sum should be deposited only into the hands of the Court Secretary.” This Court draws the inference that “Court Secretary” refers to the secretary of the arbitration tribunal. As the Circuit Court noted, Harlap never called this Court’s attention to this provision and still has not on remand. Nevertheless, the Mandate requires entry of judgment to reflect this provision.

Accordingly, the Clerk of the Court is directed to enter judgment in the same form as originally entered, except the final decretal paragraph from the original judgment shall be deleted, and in its place the judgment shall provide that it is ORDERED AND ADJUDGED that the petition to confirm the award is granted; that the motion to vacate the award is denied; and that judgment is hereby entered in favor of petitioner, Betzalel Schwartzman, and against respondent, Yaakov Harlap, also known as Jacob Charlap, in the amount of \$66,000.00, plus interest at the federal rate applicable to judgments from September 26, 2006, to the date of the arbitration award, provided, however, that all payments shall be made to the Court Secretary, Beit Hora’Ah, West Bnei-Brak, Rehov Rabi Akiva 48 (Kook 1), Bnei Brak, Israel.

SO ORDERED.

/Signed by Judge Brian M. Cogan/

U.S.D.J. 

Dated: Brooklyn, New York
July 19, 2010